

**GRANT COUNTY  
LAND USE HEARING EXAMINER**

**IN THE MATTER OF**

P 16-0166  
Fairmont Enterprise

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**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
DECISION AND  
CONDITIONS OF APPROVAL**

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on June 15, 2016 the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

**I. FINDINGS OF FACT**

1. This conditional use permit application is from Fairmont Enterprise (Bob Canaan), 917 Lawton Rd, Lynnwood, WA 98036 to permit the approved duplex be used for transient rental purposes (short term).
2. The applicant is Fairmont Enterprise, (Bob Canaan), 917 Lawton Rd., Lynnwood, WA 98036.
3. The proposed project area is an approximately .47-acre parcel (#02-1698-000). The site address of the subject parcel is 302 Desert Aire Dr SW, Mattawa WA 99349. Located in Desert Aire, WA and is Lot 9 of Replat of Desert Aire Condominiums. In the SW quarter of Section 22, Township 14 North, Range 23 East, WM, Grant County, WA.
4. The zoning for the subject property is Rural Village Residential 2 (RVR2).
5. The zoning for neighboring parcels is: To the north, RVR 2; to the south, RVR 2; to the east, RVR 2; and to the west, Rural Remote.
6. The Comprehensive Plan designation for the subject property is Rural Village.
7. This proposal was reviewed for compliance with GCC § 24.08 "Critical Areas and Cultural Resources." The subject parcel is not located in, nor does it contain, any Critical Areas as defined by Grant County Code.
8. A Public Notice containing information on this project was published in the Columbia Basin Herald on May 17, 2016, was mailed to property owners within 300 feet of the subject property, and was posted on the subject property. Information on this project was also mailed to applicable agencies of jurisdiction for their review and comment. The following agencies and departments provided comments:
  - 8.1 Grant County Fire Marshal responded on May 17, 2016
  - 8.2 Grant County Building Department responded on May 17, 2016
  - 8.3 Grant County Public Works Department responded on May 23, 2106
  - 8.4 Grant County Assessor's Office responded on May 31, 2016
9. The following agencies and departments were notified but did not respond:

- 9.1 Grant County Health District
- 9.2 Grant County PUD
- 9.3 Grant County Emergency Management
- 9.4 Grant County Treasurer's Office
- 9.5 Grant County Noxious Weed Control Board
- 9.6 Grant County Sheriff's Office
- 9.7 Grant County Auditor
- 9.8 Grant County Fire District #8
- 9.9 Desert Aire Homeowners Association

10. The following is a summary of comments received:

**10.1 Grant County Fire Marshal:**

- 10.1.1 All real development shall comply with all applicable local, state, and federal laws including retrofitting the duplex with a 13D residential fire sprinkler system.

**10.2 Grant County Building Department:**

- 10.2.1 If only one side is used for transient rental purposes that side will need to meet the requirements of the International Building Code including fire sprinkler system. If both are intended for transient then the building will have to comply with the IBC.

**10.3 Grant County Assessor:**

- 10.3.1 Parcel 02-1698-000 is a .47 acre property with a duplex; owners are Fairmont Enterprises II, LLC; no issues.

**10.4 Grant County Public Works:**

- 10.4.1 An approach permit shall be obtained for County Road access.

- 11. The application was determined to be Technically Complete on May 12, 2016.
- 12. This proposal was processed as a Type III Quasi-Judicial Application, in accordance with Chapter 25.04 "Permit Application and Review Procedures" and Chapter 25.08 "Conditional Uses and Variances" of the Grant County Unified Development Code.
- 13. This proposal was reviewed for compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of Grant County Unified Development Code. The project site was not found to be located within 300-ft of any Critical Areas.
- 14. The proposal is not within an Urban Growth Area (UGA).
- 15. The existing duplex was originally approved (06-9-06) Permit #401 and then completed under Permit # BF 15-0171.

16. Pursuant to the UDC Interpretation signed on September 22, 2006 (File #06-4606) Transient Rentals require a Conditional Use Permit.
17. UDC Interpretation signed September 22, 2006 (File #06-4614) also stated that Transient Rentals require a Conditional Use Permit.
18. The project, at completion, will provide approximately 175 square feet of landscaping. Pursuant to Grant County Code §23.12.170 (c)(2)(A) staff has determined the amount of landscaping to be appropriate for the proposal. As suggested by the Certified Nursery Professional Katy Griswold the planting should be delayed until late February or early March of 2017 to ensure the highest survival rate. The Grant County UDC allows for this extension under 23.12.170 (h).
19. Pursuant to GCC § 23.12.180 the uses surrounding this parcel are similar in nature and would not need to be screened. The Grant County PUD property to the west has a fence and trees planted as visual screening, therefore, no additional screening is required.
20. Pursuant to GCC § 23.12.130 the applicant submitted a site plan with the Conditional Use application which provided 2 additional parking spaces for each unit in addition to the existing parking in the garage and driveway.
21. In addition to the responses to the Criteria of Approval required for the Conditional Use application the applicant provided responses ensuring compliance with the Performance and Use Standards in GCC §23.08.220 (c).
22. On May 10, 2016 Planning Department staff conducted a site visit of the property.
23. The project is classified as a Transient Rental use, which is allowed with a Conditional Use Permit in the RVR 2 zone. The applicant has applied to convert the existing duplex into a Transient Rental use.
24. Grant County Planning Staff reviewed and considered the application materials and the comments received for the proposal. Based on the proposed conditions of approval specified below, and the current design of the project, staff recommended approval of subject Conditional Use Permit.
25. Applicant shall agree to conform to the purposes and regulations embodied in the Grant County Code or the Comprehensive Plan.
  - 25.1 This use will not be contrary to the intent of the Grant County Code and the Comprehensive Plan. Grant County Code allows for Transient Rentals with a Conditional Use permit as per the UDC Administrative Interpretation signed September 22, 2006 (File #06-4606).
26. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
  - 26.1 The proposal is appropriate in design, character, and appearance with the goals and policies for the applicable land use designation. The neighboring uses include residential, community park (managed by Grant PUD), Desert Aire Homeowners

recreation center and several condominiums. This project as conditioned will not be a detriment to any of those current uses listed above.

27. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
  - 27.1 Applicant submittal shall not cause any adverse human or natural impacts. Subject application borders RV parking county park/ Columbia River to the west, Desert Aire swimming facility to the east, and Desert Aire vacant lot to the southeast.
  - 27.2 The proposed use will not cause significant adverse impacts on the human or natural environment. Conditions of Approval are in place to ensure that the proposal, if approved, will meet all applicable performance and/or development standards.
28. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
  - 28.1 Subject proposal borders (2) two parks, (1) unoccupied vacant lot to the southeast and (1) one single-family residence to the northeast.
  - 28.2 The cumulative impact of additional requests for like actions will not produce significant adverse effects to the environment, provided those similar requests are adequately conditioned, or have appropriate mitigation measures applied to them at the time of approval.
29. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
  - 29.1 Current Proposal is served by all public utilities.
  - 29.2 This proposal is served by adequate facilities because the property is utilizing the Desert Aire water system which the connection has already been approved. The property is also served by Fire District #8 for fire protection. The Grant County Fire Marshal & Building department provided comments that require a fire sprinkler system to be installed. These improvements are incorporated into the Change of Use Building Permit BF #16-0275.
30. The location, size, and height of buildings, structures, walls and fences and screening vegetation for the proposed use shall not unreasonably interfere with allowable development or use of neighboring properties.
  - 30.1 The existing residential duplex meets all building and zoning regulations.
  - 30.2 The proposed building will not unreasonably interfere with allowable development or neighboring properties. Pursuant to GCC 23.12.170 the landscaping required for the project will be made a condition of approval for the project. It was determined that no additional visual screening would be required for the project based on neighboring uses.

31. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
  - 31.1 No noticeable increase in vehicular or pedestrian traffic as a result of project approval.
  - 31.2 Pedestrian and vehicular traffic resulting from this project will not be hazardous to the existing traffic in the area. This proposal will produce little additional vehicular and pedestrian traffic.
32. Land uses, activities, and structures that are allowable as conditional uses must also comply with any required performance standards in GCC § 23.08.
  - 32.1 Project application shall meet with all required standards in GCC 23.08.
  - 32.2 Structures approved by this Conditional Use Permit would comply with applicable performance standards for Transient Rentals pursuant to GCC § 23.08.220(c).
33. The proposal does not include any use or activity that would result in the siting of an incompatible use adjacent to an airport or airfield (RCW 36.70).
  - 33.1 Proposed conditional use application is compatible with existing residential zoning and the nearest airport in Desert Aire is approximately ½ mile.
  - 33.2 This proposal does not include any activity or use that would be incompatible with an airport or airfield. Although the Desert Aire Airport is located in close proximity (approx. ½ mile) to this parcel it is residential in nature which is compatible with the uses in Desert Aire.
34. The proposal conforms to the standards specified in GCC § 23.12
  - 34.1 The proposal shall conform to standards specified in GCC 23.12
  - 34.2 The project, as conditioned, complies with all applicable development standards found in GCC § 23.12.
35. An open record public hearing after due legal notice was held on June 15, 2016.
36. The entire Planning Staff file was admitted into the record at the public hearing.
37. The Grant County Planning Department recommended approval of the requested permit, subject to the recommended conditions of approval.
38. Appearing and testifying on behalf of the applicant was Bob Canaan. Mr. Canaan testified that he was the property owner and applicant. Mr. Canaan testified that while he will comply with all of the proposed Conditions of Approval, he questioned why there was a need for a fire suppression system within his buildings when there is no fire suppressive system required in other neighboring structures.
39. No member of the public appeared at the hearing.

40. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
41. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
42. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
43. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
44. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the proposed use will not unreasonably interfere with allowable development or use of neighboring properties.
45. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
46. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified in GCC 23.08.
47. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

## **II. CONCLUSIONS OF LAW**

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.
3. As conditioned, the proposal does conform to the standards specified in Grant County Code Section 23.12.
4. As conditioned, the use will comply with all required performance standards as specified in Grant County Code 23.08.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the zoning code and other land use regulations, and SEPA.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

## **III. DECISION**

Based on the above Findings of Fact and Conclusions of Law, Conditional Use Permit Application P 16-0166 is hereby **APPROVED** subject to the following Conditions of Approval.

#### IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. Construction shall proceed substantially as shown on the application materials on file with Grant County, except as modified by conditions below.
3. The applicant shall comply with all requirements as deemed necessary by the Grant County Planning Department, including but not limited to:
  - 3.1 Applicant shall comply with all applicable requirements found in Grant County Code Chapter 23.08.220(c), Performance and Use Standards-Transient Rentals.
  - 3.2 Applicant shall comply with any/all applicable requirements found in Grant County Code Chapter 23.12, Development Standards.
  - 3.3 Applicant shall complete landscaping as per approved site plan.
4. The applicant shall comply with all requirements as deemed necessary by the Grant County Public Works Department, including but not limited to:
  - 4.1 An approach permit shall be obtained for County Road access.
5. The applicant shall comply with all requirements as deemed necessary by the Grant County Fire Marshal, including but not limited to:
  - 5.1 All real development shall comply with all applicable local, state, and federal laws including retrofitting the duplex with a 13D residential fire sprinkler system.
6. The applicant shall comply with all requirements as deemed necessary by the Grant County Building Department, including but not limited to:
  - 6.1 Transient Residence must comply with the International Building Code.

Dated this 21<sup>st</sup> day of June, 2016.

GRANT COUNTY HEARING EXAMINER



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Andrew L. Kottkamp

**Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Grant County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as “(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.**